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[REDACTED]

**STATE OF WISCONSIN**  
**Division of Hearings and Appeals**

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

BCS/169118

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**PRELIMINARY RECITALS**

Pursuant to a petition filed September 21, 2015, under Wis. Stat. § 49.45(5)(a), to review a decision by the Milwaukee Enrollment Services in regard to Medical Assistance, a hearing was held on October 21, 2015, at Milwaukee, Wisconsin.

The issue for determination is whether the agency correctly terminated the petitioner's BadgerCare (BC) Plus benefits effective October 1, 2015 because she was over the program income limit.

There appeared at that time and place the following persons:

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]  
[REDACTED]  
[REDACTED]

█  
█

Respondent:

Department of Health Services  
1 West Wilson Street, Room 651  
Madison, Wisconsin 53703  
By: Belinda Brown  
Milwaukee Enrollment Services  
1220 W Vliet St, Room 106  
Milwaukee, WI 53205

**ADMINISTRATIVE LAW JUDGE:**

Corinne Balter  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. The petitioner (CARES # [REDACTED]) is a resident of Milwaukee County. The petitioner's household size is three.
2. The petitioner's monthly gross income is \$1,926. This household income is self-employment income from the petitioner's husband job as a cab driving.

3. The petitioner was pregnant. While the petitioner was pregnant she received BadgerCare (BC) Plus coverage. In June 2015 the petitioner had a miscarriage. The petitioner continued to receive BC Plus coverage through September 30, 2015. The agency discontinued the petitioner's BC Plus coverage effective October 1, 2015 because she was over the program income limit.
4. On October 2, 2015 the Division of Hearings and Appeals received the petitioner's Request for Fair Hearing.

### **DISCUSSION**

BadgerCare Plus is a Wisconsin variant of the MA program, for non-elderly, non-disabled Wisconsin residents. The program's nonfinancial eligibility standards were broadened effective April 1, 2014, to include adults who do not have minor children in their home. Wis. Stat. § 49.45(23); 2013 Wisconsin Act 116, § 29, for effective date; *BadgerCare Plus Eligibility Handbook (BCPEH)*, § 2.1, at <http://www.emhandbooks.wisconsin.gov/bcplus/bcplus.htm> (viewed in November 2015). The petitioner meets the nonfinancial eligibility tests for the program.

The petitioner must also pass an income test. An eligible applicant who is a non-pregnant adult cannot have adjusted gross income exceeding 100% of the federal poverty level (FPL). Wis. Stat. § 49.45(23)(a); *BCPEH*, § 16.1. 100% FPL for a household of three is a monthly gross income of \$1,674.17. *Id.*, § 50.1. For a pregnant woman the income limit is 300% of the FPL. *BCPEH*, § 16.1. 300% FPL for a household of three is a monthly gross income of \$5,022.50.

The petitioner's monthly household gross income is \$1,926. This exceeds 100% of the FPL for a household of three, and therefore she is not eligible for BC Plus coverage. The petitioner was previously eligible because she was pregnant. For a pregnant woman, the program income limit is significantly higher; 300% FPL compared to 100% FPL. The petitioner's household income is under 300% FPL, but over 100% FPL. Once she was no longer pregnant, she was no longer eligible for BC Plus benefits.

The petitioner testified that her miscarriage was a traumatizing event both emotionally and physically. She argues that this is a very important time for her to have healthcare coverage. I am very sorry about the petitioner's miscarriage. I understand the petitioner's loss, and wish her the best. Unfortunately, her income is over the BC Plus income limit for a non-pregnant adult. She may obtain insurance coverage through the marketplace. We are currently in the open enrollment period for marketplace insurance. If the marketplace finds her ineligible for any reason, she would be well advised to contact Milwaukee Enrollment Services in order to determine if she would then be eligible for BC Plus coverage.

### **CONCLUSIONS OF LAW**

The agency correctly terminated the petitioner's BadgerCare (BC) Plus benefits effective October 1, 2015 because she was over the program income limit.

**THEREFORE, it is**

**ORDERED**

That the petition is dismissed.

### **REQUEST FOR A REHEARING**

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

## **APPEAL TO COURT**

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Milwaukee,  
Wisconsin, this 17th day of November, 2015

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\sCorinne Balter  
Administrative Law Judge  
Division of Hearings and Appeals



**State of Wisconsin\DIVISION OF HEARINGS AND APPEALS**

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The preceding decision was sent to the following parties on November 17, 2015.

Milwaukee Enrollment Services  
Division of Health Care Access and Accountability